

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	No. 1:15cr293 (TSE)
)	
WAYNE SHELBY SIMMONS)	

**MOTION OF THE UNITED STATES FOR
LEAVE TO FILE RESPONSE OUT OF TIME**

The United States, through counsel, hereby moves for leave to file its response to the defendant's motion under 28 U.S.C. §2255 seven hours late. In support of this motion, the United States represents:

On January 26, 2017, this Court issued an order directing the government to file its response to the Section 2255 motion by 5:00 p.m. on Monday, February 27, 2017 (Doc. 132). Counsel noted the due date in his calendar but neglected to record that the pleading was due by 5:00 p.m. on February 27, 2017. Instead, counsel erroneously assumed that the pleading could be filed electronically anytime up to midnight on that date.

Counsel filed the government's response electronically precisely at midnight. Counsel had anticipated filing the pleading a few minutes earlier, but he experienced a slight delay in logging into the system that evening (Doc. 137).

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of March, 2017, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record. I further certify that, on this same date, a copy of this pleading was sent by mail, postage prepaid, to Wayne S. Simmons, Reg. No. 21594-037, FCI Schuylkill, P.O. Box 670, Minersville, PA 17954.

By: /s/
James L. Trump
Assistant United States Attorney
Attorney for the United States
United States Attorney's Office
2100 Jamieson Avenue
Alexandria, Virginia 22314
(703) 299-3726
jim.trump@usdoj.gov